

OGC 78-5838
1 September 1978

78-1050/4

MEMORANDUM FOR : Assistant for Information/DDA

STAT FROM : [REDACTED]
Assistant General Counsel

SUBJECT : S.2525 - Proposed Intelligence Charter
Legislation - Title IV, CIA - Revision

REFERENCE : AI/DDA Memo, DDA 78-1050/3, Same Subject,
Dated 25 Aug 1978

1. Thank you for your helpful comments regarding the Title IV revision. The following paragraphs respond to particular concerns expressed in the referenced memorandum.

2. Section 413(f)(5) - This does not grant the Director of Personnel personnel action authority over O/DNI employees. These authorities are provided as to the Agency in Section 421(j)(1) and (2), and as to the O/DNI in Section 114(m) and (n) where they are expressed as powers of the DNI.

* [3. Section 421(a)(5) - It was intended that Section 422(a) would provide overall, broad procurement authority. This has satisfied no one and we are requesting the restoration of 421(a)(5).

4. Section 421(a)(7) - We will propose your suggested language here.

5. Section 421(b) - It is being suggested that the reference to DNI and OMB be deleted, and it will be proposed that the Director of CIA be identified in 421(a)(1), rather than the DNI.

6. Section 421(h) - Both suggestions seem to be appropriate.

STAT [7. Section 422 - The whole area of [REDACTED] and how best to explain it to the Congress is under discussion in OGC.

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[8. Section 422(a) - With a sufficiently broad procurement authority, there would appear to be no real need to mention ordnance specifically.

OK [9. Section 422(b) - This suggestion seems appropriate and will be proposed to the SSCI staff.

10. Section 423 - "Proprietary" will be defined elsewhere.

11. Section 423(d) - I have requested specific guidance in the "proprietary" area from [] of the O&M Division of OGC (copy attached). I suggest that any particular comments or concerns you may have should be coordinated through that division.

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12. Section 426(a) - [] OGC's appropriations and authorizations expert, does not believe this presents a problem in light of the specific nature of congressional authorization of Agency programs.

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13. Section 426(c)(3) - We are suggesting this be deleted.

14. Section 431(b)(1) - This is only a small part of the entire protection of sources and methods problem, the best approach to which is the current subject of an Administration study. Let me suggest, however, that loss of "usefulness" appears to be an overly amorphous standard for a criminal statute and may not exist or may be impossible to prove where there is no accompanying loss of safety.

15. Section 441(a)(1) - While I am not totally familiar with the background of this problem, it would seem the OGC conclusion you state is based on case law in the absence of clear statutory authority. This provision would appear to clarify the situation by furnishing specific authority for the Agency to stipulate by contract as to entitlement to various benefits. This matter should be discussed with the OGC component, probably the O&M Division, which has rendered these opinions in the past.

16. Section 441(a)(3) - This modification will be proposed.

17. Section 442 - We are proposing a substitute paragraph which would merely affirm the continued existence of CIARDS.

[18. We are proposing an addition to Section 424(2) to make clear the authority to continue to maintain relations with nonintelligence agencies.

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